Gazette No. 25, dated 17th June 1952. June; July, Sept 1952

PART I.

Section v.

NOTIFICATION.

LD (b) 1-633/52/Law.

14th June 1952.

The following Bills introduced in the House of People on 20th May, 1952 are republished for general information.

1. The Reserve and Auxiliary Air Forces Bill, No. 35 of 1952.
2. The Displaced Persons (Claims) Amendment Bill No. 36 of 1952.
3. The Indian Tariff (Amendment) Bill, No. 37 of 1952.
4. The Indian Income-Tax (Amendment) Bill, No. 38 of 1952.

Government Secretariat,
Law Department,
Trivandrum.

By order of His Highness
the Raj Pramukh,
N. S. RADHAKRISHNA SARMA,
Secretary to Government.

ENTERED

BILL* No. 35 OF 1952.

A Bill to provide for the constitution and regulation of certain Air Force Reserves and also an Auxiliary Air Force and for matters connected therewith.

Be it enacted by Parliament as follows:—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Reserve and Auxiliary Air Forces Act, 1952.

(2) It extends to the whole of India.

(3) This Chapter shall come into force at once, and the remaining provisions shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Air Force Reserve" means any of the Air Force Reserves raised and maintained under this Act;

(b) "competent authority" means any air officer appointed under Section 3;

(c) "prescribed" means prescribed by rules made under this Act;

(d) all other words and expressions used herein and defined in the Air Force Act, 1950 (XLV of 1950), and not hereinbefore defined shall have the meanings respectively assigned to them by that Act.

* The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to the House of the People the consideration of the Bill.

3. *Appointment of competent authority.*—The Central Government may, by notification in the Official Gazette, appoint one or more air officers to perform all or any of the functions of the competent authority under this Act.

CHAPTER II.

Regular Air Force Reserve.

4. *Constitution of Regular Air Force Reserve.*—The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force Reserve to be designated the Regular Air Force Reserve which shall consist solely of persons transferred to it under Section 5.

5. *Transfer of certain persons to the Regular Air Force Reserve.*—(1) The competent authority may, by general or special order, transfer to the Regular Air Force Reserve—

(a) any officer or airman of the Air Force who under the terms and conditions of his service is liable to serve in any Air Force Reserve if and when constituted;

(b) any officer or airman of the Air Force whose commission or engagement in the Air Force has been terminated before the commencement of this Act and who under the terms of his commission or engagement was liable to serve in any Air Force Reserve if and when constituted;

(c) any officer or airman who has served in the Air Force and has retired therefrom,

and any officer or airman so transferred shall be deemed to be a member of the said Reserve.

(2) The competent authority may, for reasons which in his opinion are sufficient, cancel any order made under sub-section (1) and on the cancellation of such order the person in respect of whom the order had been made shall cease to be a member of the Regular Air Force Reserve.

6. *Classes of persons in the Regular Air Force Reserve.*—Members of the Regular Air Force Reserve shall be divided into the following classes, namely:—

(a) general duties officers,

(b) ground duties officers, and

(c) airmen,

and every officer shall be entitled on transfer to the Reserve to hold the same rank as that which he last held in the Air Force before his transfer.

7. *Period of service.*—(1) Every member of the Regular Air Force Reserve shall be liable to serve in the Reserve for the period of his Reserve liability;

Provided that the competent authority may require any such member to serve in the Reserve for such further period or periods as he may think fit.

Explanation I.—For the purposes of this sub-section, "period of Reserve liability" in relation to any member of the Regular Air Force Reserve means the period for which under the terms and conditions of his service in the Air Force he was liable to serve in any Air Force Reserve if and when constituted.

Explanation II.—In computing the period of Reserve liability in relation to any member of the Regular Air Force Reserve whose commission

or engagement in the Air Force was terminated before the commencement of this Act, the period which has elapsed between such termination and the date of coming into force of this Chapter shall be included.

(2) Notwithstanding anything contained in sub-section (1), no person shall be liable to serve in the Reserve after attaining the prescribed age.

8. *Termination of service in the Reserve.*—Every member of the Regular Air Force Reserve shall, on completion of the period of his service therein, cease to be a member of the Reserve.

CHAPTER III.

AIR DEFENCE RESERVE.

9. *Constitution of Air Defence Reserve.*—The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force Reserve to be designated the Air Defence Reserve which shall consist of persons deemed under the provisions of section 15 to be enrolled therein.

10. *Obligation to register.*—(1) Every citizen of India who—

(*a*) holds or has held a public transport pilot's licence ("B" Licence) issued under the Indian Aircraft Rules, 1937, or

(*b*) has had not less than two hundred hours experience of sole flying (including not less than thirty landings), or

(*c*) holds or has held a first class navigator's licence issued under the Indian Aircraft Rules, 1937, or

(*d*) has had at least four years' aviation experience during which at least six hundred hours shall have been spent in the air, not less than one hundred hours of such experience being experience of navigation in the air, or,

(*e*) holds or has held a first class radio telegraph operator's licence issued under the Indian Aircraft Rules, 1937, or

(*f*) holds or has held a radio telephone operator's licence issued under the Indian Aircraft Rules, 1937, or

(*g*) holds or has held a licence as ground engineer in any of the categories A, B, C, D or X issued under the Indian Aircraft Rules, 1937,

shall within the prescribed period correctly fill up, or cause to be filled up, to the best of his knowledge and belief the prescribed form, and sign and lodge it with the competent authority nearest to his usual place of residence or business :

Provided that nothing contained in this sub-section shall apply—

(*i*) to any person belonging to any of the classes specified in clauses (*a*) to (*f*), if he has attained the age of thirty-seven years; or

(*ii*) to any person belonging to the class specified in clause (*g*), if he has attained the age of fifty years.

(2) Without prejudice to the provisions contained in sub-section (1) the competent authority may, if he is satisfied that the provisions of that sub-section apply to any person, by order in writing, require that person to furnish within such time such particulars as may be specified in the order and such person shall within the specified time furnish correctly to the best of his knowledge and belief the said particulars to the said authority in such form and manner as may be prescribed.

11. *Liability to be called up for inquiry.*—Every person to whom the provisions of section 10 are applicable shall be liable to be called up for inquiry under section 12—

(*a*) if he belongs to any of the classes specified in clauses (*a*) to (*f*) of sub-section (*1*) of section 10 until he has completed his thirty-seventh year, and

(*b*) if he belongs to the class specified in clause (*g*) of the said sub-section, until he has completed his fiftieth year.

12. *Calling-up for inquiry.*—(1) The competent authority may cause to be served on any person for the time being liable to be called up for inquiry under section 11 a written notice stating that he is called up for inquiry regarding his fitness for service in the Air Defence Reserve and requiring him to present himself to such person and at such place and at such time (not earlier than the seventh day after the date of the service of the notice) as may be specified in the notice and to submit himself to inquiry by the competent authority.

(2) Where a notice under sub-section (1) has been duly served on any person, the competent authority may, at any time, while the person remains liable under this Chapter to be called up for inquiry, cancel the notice and cause to be served on him a further notice varying the original notice.

13. *Medical examination.*—Every person called up for inquiry under section 12 shall, if and when required by the competent authority, present himself for examination before such medical officer as may be directed by that authority, and, for the purposes of such examination, shall comply with the directions of the medical officer.

14. *Registration of persons considered fit for enrolment.*—If after such inquiry and medical examination as aforesaid, the competent authority considers a person fit for enrolment in the Air Defence Reserve, he shall inform him accordingly and enter his name and other prescribed particulars in a register maintained in such form and manner as may be prescribed.

15. *Calling up for service.*—The competent authority may cause to be served on any person whose name is entered in the register maintained in pursuance of section 14 a written notice stating that he is called up for service in the Air Defence Reserve and requiring him to present himself at such place and time (not earlier than the seventh day after the date of the service of the notice) and to such authority as may be specified in the notice; and the person upon whom the notice is served shall be deemed to be enrolled in the Reserve as from the day so specified.

16. *Period of service.*—Every person deemed to be enrolled in the Air Defence Reserve shall be liable for service —

(*a*) if he belongs to any of the classes specified in clauses (*a*) to (*f*) of sub-section (1) of section 10, until he has completed his forty-second year;

(*b*) if he belongs to the class specified in clause (*g*) of the said sub-section, until he has completed his fifty-fifth year.

CHAPTER IV.

AUXILIARY AIR FORCE.

17. *Constitution of Auxiliary Air Force.*—(1) The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force to be designated the Auxiliary Air Force.

(2) The Central Government may constitute such number of squadrons and units of the Auxiliary Air Force as it thinks fit and may disband or reconstitute any squadron or unit.

18. *Classes of persons in the Auxiliary Air Force.*—Members of the Auxiliary Air Force shall be divided into the following classes, namely:—

(*a*) officers, and

(*b*) airmen.

19. *Officers of the Auxiliary Air Force.*—The President may grant to such person as he thinks fit a commission as an officer in the Auxiliary Air Force with designation of rank corresponding to that of any commissioned officer in the Air Force.

20. *Persons eligible for enrolment.*—Any citizen of India may offer himself for enrolment in the Auxiliary Air Force and may, if he satisfies the prescribed conditions, be so enrolled on such terms as may be prescribed.

21. *Period of service.*—Every officer and every enrolled person shall, subject to any rules that may be made in this behalf under this Act, be required to serve in the Auxiliary Air Force for a period of five years from the date of his appointment or enrolment but may, after the completion of his period of service, volunteer to serve therein for further periods each of not more than five years' duration.

22. *Termination of service.*—The service of any officer or enrolled person in the Auxiliary Air Force may, at any time before the completion of his period of service, be terminated by such authority and under such conditions as may be prescribed.

23. *Advisory Committees.*—(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute—

(*a*) for the whole of India, a Central Advisory Committee;

(*b*) for each State in which there is a squadron or unit of the Auxiliary Air Force, a State Advisory Committee; and

(*c*) for every unit of the Auxiliary Air Force, a Unit Advisory Committee.

(2) It shall be the duty of the Central Advisory Committee to advise the Central Government on matters connected with the Auxiliary Air Force generally, of the State Advisory Committee to advise the Central Government on matters connected with the squadrons or units stationed in the State, and of the Unit Advisory Committee to advise the Central Government on matters connected with the unit for which it is constituted.

(3) The duties, powers and procedure of Advisory Committees and in particular the matters in respect of which the Advisory Committees may be called upon to give advice shall be such as may be prescribed.

CHAPTER V.

LIABILITY AND DISCIPLINE OF MEMBERS OF RESERVE AND AUXILIARY AIR FORCES.

24. *Liability to be called up for service.*—Every member of an Air Force Reserve or the Auxiliary Air Force shall, during the period of his service, be liable to be called up—

(*a*) for periodical training and medical examination,

(*b*) for service in aid of the civil power,

(*c*) for Air Force Service in India or abroad in an emergency.

25. *Discipline.*—Every member of an Air Force Reserve or the Auxiliary Air Force shall, when called up for training, medical examination or for service under this Act, be subject to the Air Force Act, 1950 (XLV of 1950), and the rules made thereunder in the same manner as a person belonging to the Air Force and holding the same rank is subject to the said Act and rules and shall continue to be so subject until duly released from such training, medical examination or service, as the case may be.

CHAPTER VI.

MISCELLANEOUS.

26. *Reinstatement in civil employ of persons required to perform service under this Act.*—(1) It shall be the duty of every employer by whom a person called up under section 24 is employed to grant him such leave as may be necessary and to reinstate him in his employment on the termination of the period during which he has been so called up in an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been so called up :

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason the reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before him and after making such further inquiry into the matter as may be prescribed, pass an order—

(*a*) exempting the employer from the provisions of this section, or

(*b*) requiring him to re-employ such person on such terms as that authority thinks suitable, or

(*c*) requiring him to pay to such person by way of compensation for failure or inability to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (*1*), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period during which he was called up under section 24.

(4) The duty imposed by sub-section (*1*) upon an employer to grant leave to a person such as is described in that sub-section or to reinstate him in his employment shall attach to an employer who, before such person is actually called up under section 24, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of an order relating to that person under section 24.

27. *Preservation of certain rights of persons called up for service.*—When any person called up under section 24 has any rights under any provident fund or superannuation fund or other scheme for a benefit of employees maintained in connection with the employment he relinquishes, he shall continue, during the period for which he has been so called up and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.

28. *Pay and allowances.*—Every member of an Air Force Reserve or the Auxiliary Air Force shall, during the period of training or active service, receive such pay and allowances as are admissible to an officer or airman, as the case may be, in the corresponding rank, branch or trade of the Air Force.

29. *Penalties.*—(1) If any person refuses or without lawful excuse (the burden of proving which shall lie upon such person) neglects to comply fully with the requirements of sub-section (*1*) of section 10 or of any order made under sub-section (*2*) of that section or with the requirements of section 13 he shall be punishable with fine which may extend to five hundred rupees.

(2) If any person wilfully fails to comply with any notice issued under section 12 or section 15 he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

30. *Service of notice.*—Any notice or order to be served on any person for the purposes of this Act may be sent by post to that person at his last known address or may be served upon him in such other manner as may be prescribed.

31. *Competent authority to be public servant.*—For the purposes of this Act every competent authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

32. *Power of Central Government to grant exemptions.*—The Central Government may, for special reasons and subject to such conditions as may be prescribed, by order exempt any person from any obligation or liability under this Act or any particular provision thereof.

33. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the composition and strength of any Air Force Reserve;

(*b*) the circumstances in which and the conditions subject to which any officer or airman may be transferred to the Regular Air Force Reserve under section 5;

(*c*) the age beyond which retired officers or airmen shall not be liable to serve in the Regular Air Force Reserve;

(*d*) the form and manner in which the particulars required by sub-section (*2*) of section 10 shall be furnished;

(*e*) the form and manner in which registers shall be maintained in pursuance of section 14, the particulars to be entered therein, and the correction or revision of such particulars from time to time;

(*f*) the pay or allowances payable to persons called up for inquiry, training, medical examination or service under this Act;

(*g*) the terms and conditions subject to which a person may be enrolled as a member of the Auxiliary Air Force;

(h) the authority by which and the conditions subject to which the service of any officer or enrolled person in the Auxiliary Air Force may be terminated ;

(i) the constitution and the duties, powers and procedure of Advisory Committees to be constituted under section 23 ;

(j) the manner in which and the conditions subject to which the rank of any member of an Air Force Reserve may be determined ;

(k) the constitution of the authority for the purpose of section 26 and the manner in which such authority may conduct any inquiry under this Act ;

(l) the manner in which any notice or order issued or made under this Act may be served ;

(m) the conditions subject to which any person may be exempted from any obligation or liability under this Act or any particular provision thereof ;

(n) any other matter which under this Act is to be, or may be, prescribed.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

34. *Amendment of sections 2, 4 and 31, Act XLV of 1950.*—In the Air Force Act, 1950,—

(i) in section 2, for clause (c) the following clause shall be substituted namely :—

"(c) persons belonging to the Regular Air Force Reserve or the Air Defence Reserve or the Auxiliary Air Force, in the circumstances specified in section 25 of Reserve and Auxiliary Air Forces Act, 1952";

(ii) in section 4, for the words "the Indian Air Force Volunteer Reserve", wherever they occur, the words "any Air Force Reserve or the Auxiliary Air Force" shall be substituted ;

(iii) in section 31, for the words "the Air Force Reserve" the words "any Air Force Reserve or the Auxiliary Air Force" shall be substituted.

35. *Repeal of Act XXXVI of 1939.*—The Indian Air Force Volunteer Reserve (Discipline) Act, 1939, is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

It is necessary to constitute certain Reserves for the Air Force in order to enable quick expansion in an emergency. The Reserves proposed will be constituted from outgoing I. A. F. personnel, civilian pilots and technicians, and by raising an Auxiliary Force of volunteers from the public.

2. *Regular Air Force Reserve.*—The Regular Air Force Reserve will consist of Indian Air Force officers and airmen transferred after completion or termination of the period of their regular service to this Reserve subject to the existence of vacancies. The initial period of Reserve Service will normally be 5 years for officers and 6 years for airmen subject also to their reaching such age limit as may be prescribed by the Government.

Those extended Service Commissioned Officers whose term of employment expires prior to the formation of this Reserve will also be liable to serve in the Reserve.

3. *Air Defence Reserve.*—The constitution of the Air Defence Reserve requires that a census should be taken of the civilian technical manpower available in the country which could be utilised if occasion arises. All

persons within certain age limits possessing certain flying or other technical qualifications would be required to furnish certain particulars to the appropriate authority and submit themselves for medical examination. A register of persons who are fit for service would be maintained, and if and when occasion arises persons whose names are entered in the register will be called out for service. It is necessary to have legislation for this purpose on account of the shortage of trained personnel which obtains at present, and which is likely to persist for some time; and also to safeguard the interests of those who are called out from their jobs for training or required to serve in an emergency.

Provision is made requiring civil employers to grant any enrolled person such leave as may be necessary and to have him reinstated into civil employment after the termination of the period during which he has been called out.

4. *Auxiliary Air Force.*—The Auxiliary Air Force allows the enrolment of civilian volunteers (including Government servants) to give them part-time Air Force training. This provides for the fighter defence of the locality, in which its self-contained units and squadrons are raised. It may be looked at as the Territorial Army's air counterpart.

Advisory Committees will be set up in big towns, where it is intended to locate the Auxiliary Air Force Squadrons to maintain close liaison with the civil side. These Committees will serve also as a link between the Auxiliary Air Force and the Indian Territorial Army, and assist the Commanding Officers of the Units concerned to recruit civilian personnel.

The period of service in the Auxiliary Air Force will normally be five years in the first instance.

5. The period of training will be prescribed in the rules made by the Central Government from time to time and care will be taken to see that the training is so arranged that minimum dislocation of normal civil duties is caused.

6. The composition of the Reserves, the ranks of the persons enrolled and other allied matters will be regulated by rules made by the Central Government and it is intended to build these Reserves gradually.

NEW DELHI,
The 14th May 1952.

N. GOPALASWAMI.

BILL No. 36 OF 1952.

A Bill to amend the Displaced Persons (Claims Act, 1950.)

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Displaced Persons (Claims) Amendment Act, 1952.

2. *Amendment of section 1, Act XLIV of 1950.*—For sub-section (3) of section 1 of the Displaced Persons (Claims) Act, 1950, the following sub-section shall be substituted, namely :—

"(3) It shall remain in force for a period of three years only."

3. *Repeal.*—The Displaced Persons (Claims) Continuance Ordinance, 1952 (V of 1952) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The Displaced Persons (Claims) Act, 1950 (XLIV of 1950), was enacted on the 18th May, 1950, for a period of two years only, as it was expected that the work of verification would be completed within this period. In spite of the best efforts of the Ministry of Rehabilitation, it has, however, not been possible to complete the work within this period. In the beginning, the displaced persons were slow in filing the claims and the period for receipt of claims had to be extended. There have been two other limiting factors. Firstly, the work involved verification of titles and assessment of value of properties situated in West Pakistan, which cannot be inspected by the Claims Officers and about which documentary evidence is not available in a majority of cases. Secondly, the Ministry, after making all possible efforts and tapping all available sources, has not been able to secure for posting more than 300 Claims Officers. According to the latest figures available, more than two-thirds of urban property sheets have been verified. It will, therefore, not be possible to complete the work before the expiry of the Law in force. An Ordinance was promulgated on the 5th May, 1952, temporarily to keep the Act in force. The present Bill seeks to replace the Ordinance and to keep the original Act in force for a total period of three years instead of two.

AJIT PRASAD JAIN.

NEW DELHI,
The 15th May 1952.

BILL* No. 37 OF 1952.

A Bill further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Indian Tariff (Second Amendment) Act, 1952.

2. *Amendment of the First Schedule Act XXXII of* 1934.—In the First Schedule to the Indian Tariff Act, 1934,

(*i*) for Item No. 11 (2), the following Item shall be substituted, namely:—

"11 (2)	Sago flour ...	Protective.	30 per cent. *ad valorem.*	...	...	December 31st, 1954.";

(*ii*) for Items Nos. 11 (4) and 11 (5), the following Items shall be substituted, namely:

"11 (4)	Starch ...	Protective	30 per cent. *ad valorem.*	...	...	December 31st, 1954
11 (5)	Farina ...	Protective	30 per cent *ad valorem.*	...	...	December 31st, 1954.";

* The President has, in pursuance of clause (1) of article 117 of the Constitution of India, recommended to the House of the People the introduction of the Bill.

(*iii*) in Items Nos. 46, 46 (1), 47, 47 (1), 48, 75 (5), 75 (6) 75 (7) and 75 (8), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "March 31st, 1952", wherever they occur, the word, figures and letters "December 31st, 1952" shall be substituted;

(*iv*) for Item No. 63 (30), the following Item shall be substituted, namely:—

"63 (30)	Rods or bars of alloy, tool or special steel of the following categories but excluding bright drawn bars of high speed steel and of stainless and heat resisting steel and precision ground and polished bars and silver steel finish bars of all kinds:...					
	(1) High speed steel containing more than 13 per cent. tungsten,					
	(2) Stainless and heat resisting steel containing more than 11 per cent. chromium,					
	(3) other alloy, steels not included in category (*i*) or (*ii*) containing any of the following:					
	(*i*) 0·40 per cent. or more of chromium or nickel;					
	(*ii*) 0·10 per cent. or more of molybdenum, tungsten or vanadium; or					
	(*iii*) 10·00 per cent. or more of manganese—					
	(*a*) of British manufacture,	Protective	30 per cent. *ad valorem*	...	...	December 31st, 1954.
	(*b*) not of British manufacture.	Protective	42 per cent. *ad valorem*.	...	...	December 31st, 1954.":

(v) in Items No. 66 (a) and 66 (1), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "may 14th, 1952," wherever they occur, the word, figures and letters "December 31st, 1952" shall be substituted ;

(vi) for Item No. 71 (8), the following Item shall be substituted, namely:—

"71 (8)	Grinding wheels and segments made of synthetic abrasive grains, excluding the following, namely, (i) grinding wheels (a) of any thickness or bore but more than 21 in. in diameter, or (b) of any diameter or bore but more than 7 1/2 in. or less than 1/8 in. thickness, or (c) of any diameter or thickness but more than 12 1/2 in. bore; and (ii) diamond-impregnated wheels.	Protective	50 per cent. *ad valorem*.	...	...	December 31st, 1954.

(vii) after Item No. 71 (11), the following Items shall be inserted, namely;—

"71 (12)	Grinding wheels and segments made of synthetic abrasive grains, not otherwise specified.	Revenue...	25 per cent. *ad valorem*	...	...	...
71 (13)	Zip fasteners—					
	(a) with metal teeth other than those specified in category (b).	Protective	31 1/4 per cent *ad valorem*	...	...	December 31st 1954.
	(b) with metal teeth having not more than 9 teeth per inch on either side and in which the total width of the metal portion in the closed state is not less than 8 m. m.	Revenue...	25 per cent *ad valorem*	...	...	...
	(c) not otherwise specified.	Revenue ...	25 per cent *ad valorem*	...	...	...

(viii) in Item No. 75 (9) (ii), in the entry in the second column, after the word "leather", where it occurs for the first time, the word "plastic" shall be inserted.

Declaration under the Provisional Collection of Taxes Act, 1931.

It is hereby declared that it is expedient in the public interest that the provisions of sub-clause (*i*), sub clause (*ii*), sub-clause (*vii*) in relation to Item No. 71(13) (*a*) and sub-clause (*viii*) of clause 2 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

STATEMENT OF OBJECTS AND REASONS

The object of the present Bill is to amend the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), in order to grant protection to certain industries and to continue or discontinue protection to certain other industries on the advice of the Tariff Board.

2. The industries which will be protected are:—

(*a*) Zip fasteners, and

(*b*) Bright drawn bars of alloy, constructional steels and blue reeled bars of all kinds by including them within the protective categories of alloy, tool and special steels under Tariff Item No. 63 (30).

3. The industries which will continue to be protected are :—

Item No. of Tariff	Name of the industry
11 (2), 11 (4) and 11 (5)	Starch, sago flour and farina ;
46, 46 (1), 47, 47 (1) and 48... ...	Sericulture ;
63 (30)	Alloy, tool and special steels ;
66 (a) and 66 (1)	Aluminium ;
75 (5), 75 (6), 75 (7) and 75 (8) ...	Bicycles (including parts and accessories thereof).

4. Protection will also be continued in respect of certain categories of grinding wheels and segments and withdrawn in respect of certain others.

5. Opportunity has also been taken to carry out a minor amendment of a formal character.

NEW DELHI ;
The 19th May, 1952.

T. T. KRISHNAMACHARI.

The following Bill was introduced in the House of the People on 26th May, 1952:—

BILL* No. 38 OF 1952

A Bill further to amend the Indian Income-tax Act, 1922.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Indian Income-tax (Amendment) Act, 1952.

* The President has, in pursuance of clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the House of the People the introduction of the Bill.

2. *Amendment of section 2, Act XI of 1922.*—In section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the principal Act),—

(*a*) for clause (*2*), the following clause shall be substituted, namely:—

"(*2*) 'assessee' means a person by whom income-tax (whether with or without interest) or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the loss sustained by him or of the amount of refund due to him;";

(*b*) clause (*6*) shall be renumbered as clause (*5A*), and after clause (*5A*) as so renumbered, the following clause shall be inserted, namely:—

"(*6*) 'Director of Inspection' means a person appointed to be a Director of Inspection under section 5, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection;";

(*c*) after clause (*6D*), the following clause shall be inserted, namely:—

"(*6E*) 'Inspector of Income-tax' means a person appointed to be an Inspector of Income-tax under section 5;";

(*d*) for clause (*11*), the following clause shall be substituted, namely:—

"(*11*) previous year' means—

(*i*) in respect of any separate source of income, profit and gains—

(*a*) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then, at the option of the assessee, the year ending on the date to which his accounts have been so made up:

Provided that where in respect of a particular source of income, profits and gains an assessee has once been assessed, or where in respect of a business, profession or vocation newly set up an assessee has exercised the option under sub-clause (*c*), he shall not, in respect of that source or, as the case may be, business, profession or vocation exercise the option given by this sub-clause so as to vary the meaning of the expression 'previous year' as then applicable to him except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit to impose; or

(*b*) in the case of any person, business or company or class of person, business or company, such period as may be determined by the Central Board of Revenue or by such authority as the Board may authorise in this behalf; or

(*c*) where a business, profession or vocation has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business, profession or vocation to the 31st day of March next following or to the last day of the period determined under sub-clause (*b*), or, if the accounts of the assessee are made up in respect of a period not exceeding twelve months from the date of the setting up of the business, profession or vocation and the case is not one for which a period has been determined under sub-clause (*b*), then, at the option of the assessee, the period

from the date of the setting up of the business, profession or vocation to the date to which his accounts have been so made up :

Provided that when such other date does not fall between the setting up of the business, profession or vocation and the next following 31st day of March inclusive, it shall be deemed that there is no previous year for the said assessment year and the previous year which would otherwise have been determined according to the option exercised by the assessee shall be deemed to be the previous year for the next succeeding assessment year ;

(*ii*) in respect of the share of the income, profits and gains of a firm where the assessee is a partner in the firm the period as determined for the assessment of the income, profits and gains of the firm;".

3. *Amendment of section 4, Act XI of 1922.*—(*1*) In section 4 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) after the third proviso, the following further provisos shall be inserted, namely :—

"Provided further that, in the case of a person who was not resident in the taxable territories in two out of the three years immediately preceding the previous year, so much of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) as accrued or arose to him without India, shall not be included in his total income chargeable in any year subsequent to the year ending on the 31st day of March 1951, whether his assessment for that year has or has not been completed before the commencement of the Indian Income tax (Amendment) Act, 1952 :

Provided further that, in the case of a person resident in the taxable territories to whom the preceding proviso or paragraph 8 of the Part B States (Taxation Concessions) Order, 1950 does not apply, so much of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) as accrued or arose to him without India and were not chargeable under this Act, unless brought into or received in the taxable territories, shall not be included in his total income if—

(*i*) such income, profits and gains are brought into or received in the taxable territories after the 2nd day of September 1951, and before the 1st day of April 1954 ;

(*ii*) half of the amount of such income, profits and gains is invested, within three months of the receipt thereof in the taxable territories, in securities of the Central Government or of a State Government purchased through the Reserve Bank of India and kept with the said Bank for custody for a minimum period of two years; and

(*iii*) out of the remaining half, the amount of any income-tax, interest or penalty or any other sum due from such person under this Act on the date of receipt of such income, profits and gains in the taxable territories is paid within the said three months.";

(*ii*) in *Explanation* 2, after the words " payable in the taxable territories", the words, brackets and not figures " and not being pension payable without India to any person referred to in clause (2) of article 221 or article 314 of the Constitution " shall be inserted"

(*b*) in sub-section (3),—

(*i*) for clauses (*i*) and *ia*), the folloging clause shall he sustituted, namely:-

"(*i*) Subject to the provisions of clause (c) of sub-section (1) of section 16, any income derived from property held under a trust or other legal obligation solely for religious or charitable purposes, in so far as such income is applied to such religious or charitable purposes only, and in the case of a property so held in part only for such purposes, the income applied or finally set apart ; for application thereto:

Provided that such income shall be included in the total income unless—

(*i*) in the case of property held under a trust or other lagal obligation created before the commencement of the Indian Incomestax (Amendment) Act, 1952, the income where from is applied to religious and charitable puposes without the taxable territories, the Central Board of Revenue by general or special order in this behalf otherwise directs; and

(*ii*) in the case of income derived from business carried on on behalf of a religious and charitable institution, the income is applied wholly for the purposes of the institution and –

(*a*) the business is carried on in the course of the carrying out of a primary purpose of the institution, or

(*b*) the work in connection with the business is mainly carried on by the beneficiaries of the institution ; " ;

(*ii*) in clause (*xii*), for the figures "1952" the figures "1954" shall be substituted;

(*iii*) after clause (*xiii*), the following clauses shall be inserted, namely:—

"(*xiv*) Any income recieved by an employee of a foreign enterprise, not engaged in any trade or business in the taxable territories, as remuneration for services rendered by him during the course of his stay in the taxable territories, where such stay does not exceed in the aggregate a period of ninety days in any year and where such remuneration is not liable to be deducted from the income, profits and gains chargeble under the Act.

(*xv*) Any income received as remuneration, whether directly or indirectly, from the Government of foreign State by any person who is assigned to duties in India in connection witn any Co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of that foreign State (the terme where of provide for the exemption given by this clause) and any other income such person or of the members of his family accompanying him to India, which accrues or arises without the taxahle territorics, and is not deemed to accrue or arise in the taxable territories, upon which such person or the members of his family are required to pay any income or social security, tax to the Government of that foreign State.

(*xvi*) Any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for Reconstruction and Development, except where the holder of such bond is a person resident in the taxable territories.

(*xvii*) Interest on the 3 1/2 per cent Ten Year Treasury Savings Deposit Certificates issued by or under the authority of the Central Government for an amount not exceeding the maximum amount which an assessee is entitled to deposit in such certificates.

(*xviii*) Interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949.

(*xix*) Any daily allowance received by, or which has accrued due to, person before the 1st day of April, 1952, by reason of his membership of the Dominion Legislature or of the Constituent Assembly or of Parliament or of any State Legislature or of any Committee thereof."

(*c*) in the last paragraph, in the definition of "charitable purpose the word, letter and brackets "clause (*ia*)" shall be omitted, and for the words "income of a private religious trust" the words "income from property held under a trust or other legal obligation for private religious purposes shall be substituted.

(2) The amendments made by sub-clause (*iii*) of clause (*b*) of subsection (*1*) shall be deemed to be operative in relation to all assessments for any year whether such assessments have or have not been completed before the commencement of the Indian Income tax (Amendment) Act, 1952.

4. *Amendment of Section 5, Act XI of 1922.*—In section 5 of the principal Act,—

(*a*) in sub-section (*1*)

(*i*) after clause (*a*) the following clause shall be inserted, namely;—

"(*aa*) Directors of Inspection,"

(*ii*) after clause (*d*), the following clause shall be inserted namely:—

"(*e*) Inspectors of Income-tax.".

(*b*) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) The Central Government may appoint as many Directors of Inspection as it thinks fit, and Directors of Inspection shall, subject to the control of the Central Board of Revenue, perform such functions of any other Income-tax authority as may be assigned to them by the Central Government." ;

(*c*) for sub-section (2), the following sub-section shall be substituted, namely ;—

"(2) The Central Government may appoint as many Commissioners of Income-tax as it thinks fit and they shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of incomes or of such cases or classes of cases as the Central Board of Revenue may direct, and where such directions have assigned to two or more Commissioners of Income-tax the same area or the same persons or classes of persons

for the same income or classes of incomes or the same cases or classes of cases, they shall have concurrent jurisdiction subject to any orders which the Central Board of Revenue may make for the distribution and allocation of work to be performed." ;

(*d*) for sub-section (3), the following sub-sections shall be substituted, namely :—

' "(3) The Central Government may appoint as many Appellate or Inspecting Assistant Commissioners of Income tax and Income-tax Officers of Class I service as it thinks fit, and the Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint as many Income tax Officers of Class II service and Inspectors of Income-tax as may, from time to time, be sanctioned by the Central Government.

(3A) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions." ;

(*e*) in the second sentence of sub-section (5), the words "with the previous approval of the Central Board of Revenue" shall be omitted, and for the words "Appellate Assistant Commissioner" wherever they occur in this sentence, the words "Inspecting Assistant Commissioner" shall be substituted :

(*f*) after sub-section (5), the following sub-section shall be inserted, namely :—

"(5A) Inspectors of Income-tax shall perform such functions in the execution of this Act as are assigned to them by the Income-tax Officer or other income-tax authority under whom they are appointed to work, and shall be subordinate to such officer or authority,";

(*g*) for sub-section (7), the following sub-section shall be substituted, namely :—

"(7) For the purposes of this Act,—

(i) Appellate Assistant Commissioners of Income-tax shall be subordinate to the Commissioner of Income tax within whose jurisdiction they perform their functions; but no orders, instructions or directions shall be given to them so as to interfere with their discretion in the exercise of their appellate functions;

(ii) Inspecting Assistant Commissioners shall be subordinate to the Director of Inspection and to the Commissioner of Income-tax within whose jurisdiction they perform their functions;

(iii) Income-tax Officers shall be subordinate to the Director of Inspection, the Commissioner of Income-tax and the Inspecting Assistant Commissioner of Income-tax within whose jurisdiction they perform their functions."

(*h*) after sub-section (7A), the following sub-sections shall be inserted, namely :—

"(7B) The Director of Inspection, the Commissioner or the Inspecting Assistant Commissioner, as the case may be may issue such instructions as he thinks fit for the guidance of any Income-tax Officer subordinate to him in the matter of any assessment,

and for the purposes of making any inquiry under this Act (which he is hereby empowered to do), the Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner shall have all the powers that an Income-tax Officer has under this Act in relation to the making of inquiries; and the question whether any, and if so, what instructions were issued shall not be inquired into by any appellate authority under this Act or by any Court.

(7C) Whenever in respect of any proceeding under this Act an Income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the Income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor."

5. *Amendment of Section 5A, Act XI of 1922.*—In section 5A of the principal Act,—

(a) in sub-section (2), the proviso shall be omitted;

(b) in sub-section (3), for the words beginning with "A judicial member shall be" and ending with the words and figures "the Auditors Certificates Rules, 1932:", the following shall be substituted, namely:—

"A judicial member shall be a person who has for at least ten years either held a civil judicial post or been in practice as an advocate of a High Court, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII of 1949) or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant:";

(c) in sub-section (4), the word "judicial" shall be omitted.

6. *Amendment of section 7, Act XI of 1922.*—In sub-section (1) of section 7 of the principal Act, in the proviso to *Explanation 2*, after the words "liable to income-tax any payment" the words "of death *cum* retirement gratuity received after the 15th day of April 1950, under the revised Pension Rules of the Central Government or under any similar scheme of a State Government or any payment" shall be inserted.

7. *Amendment of section 9, Act XI of 1922.*—(1) In section 9 of the principal Act,—

(a) in sub-section (1)—

(i) the words "*bona fide*" shall be omitted;

(ii) after clause (ii), the following proviso shall be inserted namely:—

"Provided that for the purposes of making any assessment for the year ending on the 31st day of March, 1952, in respect of the property situated in an area affected by the Assam earthquake of 1950, the allowance on account of repairs referred to in clauses (i) and (ii) shall be increased up to a maximum of one half of the annual value thereof or the amount of expenditure proved to have been actually incurred for repairs, whichever is the less";

(b) for the first proviso to sub-section (2), the following proviso shall be substituted, namely:—

"Provided that, where the property is in the occupation of the owner for the purposes of his own residence, the annual value shall be determined in the same manner as if the property had been let to a tenant, so however that, where the sum so determined exceeds ten per cent. of the total income of the owner, the annual value of the property shall be deemed to be ten per cent. of such total income".

(2) The amendments made by sub-clause (*ii*) of clause (*a*) of sub-section (1) shall be deemed to be operative for any assessment for the year ending on the 31st day of March, 1952, whether made before or after the commencement of this Act, and where any such assessment has been made before such commencement it shall be lawful for the Income-tax Officer to revise it, wherever necessary, to give effect to this amendment.

8. *Amendment of section 10, Act XI of 1922*,—In section 10 of the principal Act,—

(*a*) in sub-section (2),—

(*i*) in sub-clause (*a*) of clause (*vi*), for the figures "1952"; the figures "1951" shall be substituted, and in clause (*b*) of the proviso to that clause, for the words "where full" the words "where, in the assessment of the assessee or if the assessee is a registered firm, in the assessment of its partners, full" shall be substituted ;

(*ii*) in clause (*via*), for the words and figures "in the assessments for each of the five years commencing on the 1st day of April, 1949, and ending with the 31st day of March, 1954", the words and figures "in not more than five successive assessments for the financial years next following the previous year in which such buildings are erected and such machinery and plant installed and falling within the period commencing on the 1st day of April, 1949, and ending on the 31st day of March, 1959" shall be substituted, and in the proviso to that clause, for the words and figures "on the 31st day of March, 1953", the words "on the 31st day of March immediately preceding the last financial year in which the further sum referred to in this clause is admissible" and for the words "in the assessment for the year commencing next after that date", the words "in the assessment for such last financial year" shall respectively be substituted ;

(*iii*) in clause (*xv*), for the words and brackets "(not being in the nature of capital expenditure or personal expenses of the assessee)" the words and brackets "(not being an allowance of the nature described in any of the clauses (*i*) to (*xiv*) inclusive, and not being in the nature of capital expenditure or personal expenses of the assessee)" shall be substituted ;

(*b*) in sub-section (5),—

(*i*) after clause (*b*), the following clause shall be inserted namely :—

"(*c*) in the case of assets acquired by the assessee by way of gift or inheritance, the 'written-down value' as in the case of the previous owner or the market value thereof whichever is the less :" and

(*ii*) at the end, the following *Explanation* shall be inserted, namely :—

"*Explanation*.—For the purposes of this sub section, the expression "actual cost" means the actual cost of the assets as reduced by the amounts, if any, received in the course of business from any outside source for or in connection with the purchase of such assets, and any allowance in respect of any depreciation carried forward under clause (*b*) of the proviso to clause (*vi*) of sub-section (2) shall be deemed to be depreciation 'actually allowed' ; ".

9. *Amendment of section 14 Act XI of 1922*.—In section 14 of the principal Act, in clause (*c*) of sub-section (2), for the words and letter "Part B State", the words "the State of Jammu and Kashmir" shall be substituted.

10. *Amendment of section 15C, Act XI of 1922.*—In section 15C of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) in clause (*ii*), for the word "three" the word "six" shall be substituted;

(*ii*) in clause (*iii*), for the word "fifty" the word "twenty-five" shall be substituted;

(*b*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(*6*) The provisions of this section shall apply to the assessment for the financial year next following the previous year in which the assessee begins to manufacture or produce articles and for the four assessments immediately succeeding."

11. *Amendment of section 17, Act XI of 1922.*—In sub-section (*1*) of section 17, after the first proviso, the following further proviso shall be inserted, namely:—

"Provided further that where any such person satisfies the Income-tax Officer that he was prevented by sufficient cause from making such declaration on the first occasion on which he became assessable and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the declaration at any time after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment had not been completed before such declaration) and all assessments thereafter."

12. *Amendment of section 18, Act XI of 1922.*—In section 18 of the principal Act,—

(*a*) in sub-section (*3B*), for the words "at the rate or rates applicable to the estimated income of the assessee under this dead", the following shall be substituted, namely:—

"on the estimated income of the assessee under this head in accordance with the provisions of clause (b) of sub-section (*1*) of section 17:

Provided that where—

(*i*) the person not so resident has obtained a certificate in writing from the Income-tax Officer (which certificate the Income-tax Officer shall be bound to give in every proper case on the application of the assessee) stating that income-tax and super-tax may be deducted at the rates specified therein, or

(*ii*) the Income-tax Officer has, by an order in writing, required the person responsible for making payment to deduct income-tax and super-tax at the rates specified in that order,

the person responsible for making payment shall, until such certificate or order is cancelled by the Income-tax Officer, deduct income-tax and super-tax at the rates specified in such certificate or order, as the case may be.";

(*b*) for sub-sections (*3A*), (*3B*), (*3C*), (*3D*) and (*3E*), the following sub-sections shall be substituted, namely:—

'(*3A*) The person responsible for paying any income chargeable under the head "Interest on securities" to a person whom he has no reason to believe to be resident in the taxable territories, shall, at

the time of payment, deduct super-tax on the amount of such interest—

(*i*) if such person is a company, at the rate applicable to a company,

(*ii*) if such person is not a company, in accordance with the provisions of clause (*b*) of sub-section (*1*) of section 17 :

Provided that where such person is not a company, the proviso to sub-section (*2B*) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (*2B*).

(*3B*) Any person responsible for paying to a person not resident in the territories any interest not being "Interest on securities" or any other sum chargeable under the provisions of this Act shall, at the time of payment, unless he is himself liable to pay any income-tax and super-tax thereon as an agent, deduct income-tax at the maximum rate and super-tax at the rate applicable to a company or in accordance with the provisions of sub-clause (*b*) of sub-section (*1*) of section 17, as the case may be :

Provided that where the person not resident is not a company, the proviso to sub-section (*2B*) shall apply to the deduction of income-tax and super-tax under this sub-section as it applies to the deduction of income-tax and super-tax under sub-section (*2B*) :

Provided further that nothing in this section shall apply to any payment made in the course of transactions in respect of which a person responsible for the payment is deemed under the first proviso to section 43 not to be an agent of the payee.

(*3C*) Where the person responsible for paying any sum chargeable under this Act other than interest, to a person not resident in the taxable territories, considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income-tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable and upon such determination tax shall be deducted therefrom by the person responsible for making such payment in accordance with the provisions of sub-section (*3B*).

(*3D*) The principal officer of an Indian company or a company which has made such effective arrangements as may be prescribed for the deduction of super-tax from dividends shall, at the time of paying any dividend to a shareholder whom the principal officer has no reason to believe to be resident in the taxable territories, deduct super-tax on the amount of such dividend as increased in accordance with the provisions of sub-section (*2*) of section 16—

(*i*) if the shareholder is a company, at the rate applicable to a company,

(*ii*) if the shareholder is a person other than a company, in accordance with the provisions of clause (*b*) of sub-section (*1*) of section 17 :

Provided that in the case of a shareholder other than a company, the proviso to sub-section (*2B*) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B). ;

(c) in sub-section (*5*), after the words "Any deduction made" the words "and paid to the account of the Central Government" shall be

inserted; after the words "given to him therefor" the words "on the production of the certificate furnished under sub-section (9) or section 20, as the case may be," shall be inserted, and after the second proviso, the following further proviso shall be inserted, namely:—

"Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted or in respect of any sum by which the dividend has been increased under sub-section (2) of section 16, may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income.";

(d) in sub-section (7), for the words, brackets, figures and letters "sub-sections (3D) and (3E)" the word, brackets, figure and letter "sub-section (3D)" shall be substituted;

(e) in sub section (9), for the brackets, figures, letters and word "(3C), (3D) or (3E)", the word, brackets, figure and letter "or (3D)" shall be substituted;

(f) after sub-section (9), the following Explanation shall be inserted, namely:—

"*Explanation*.—For the purposes of this section and section 20A, the expression 'person responsible for paying' means—

(i) in the case of payments of income chargeable under the head 'Salaries' other than payments by the Central Government or the Government of a State, the employer himself or if the employer is a company, the company itself including the principal officer thereof;

(ii) in the case of payments of income chargeable under the head 'Interest on securities', other than payments made by or on behalf of the Central Government or the Government of a State, the local authority or company including the principal officer thereof;

(iii) in the case of payment of interest not being 'Interest on securities', the payer himself or if the payer is a company, the company itself including the principal member thereof."

13. *Amendment of section 18A, Act XI of 1922.*—In section 18A of the principal Act,—

(a) in sub-section (1) (a), for the words "if that total income exceeded six thousand rupees", the words "if that total income exceeded the maximum amount not chargeable to tax in his case by two thousand five hundred rupees" shall be substituted;

(b) in sub section (3), for the words "is likely to exceed six thousand rupees," the words "is likely to exceed the maximum amount not chargeable to tax in his case by two thousand five hundred rupees," shall be substituted;

(c) to sub-section (5), the following further proviso shall be added, namely:—

"Provided further that no interest shall be payable after the 31st day of March, 1952.";

(a) In sub-section (6),—

(i) in the first proviso after the word "Provided", the word "further" shall be inserted and before that proviso, the following proviso shall be inserted, namely:—

"Provided that after the 31st day of March, 1952, interest shall be payable at the rate of four per cent. per annum." ;

(ii) after the last proviso, the following further proviso shall be inserted, namely :—

"Provided further that where the assessment is not contested by the assessee and the tax has been paid accordingly, the Income-tax Officer may, having regard to the circumstances of the case, reduce or waive the interest payable by the assessee."

14. *Amendment of section 22, Act XI of 1922.*—In section 22 of the principal Act,—

(a) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) If any person, who has not been served with a notice under sub-section (2) has sustained a loss of profits or gains in any year under the head 'Profits and gains of business, profession or vocation', and such loss or any part thereof would ordinarily have been carried forward under sub-section (2) of section 24, he shall, if he is to be entitled to the benefit of the carry forward of loss in any subsequent assessment, furnish within the time specified in the general notice given under sub-section (1), all the particulars required under the prescribed form of return of total income and total world income in the same manner as he would have furnished a return under sub-section (1) had his income exceeded the maximum amount not liable to income-tax in his case, and all the provisions of this Act shall apply as if it were a return under sub-section (1)." ;

(b) in sub-section (4), for the words "such accounts or documents as the Income-tax Officer may require" the following shall be substituted, namely :—

"such accounts or documents, including accounts relating to any year subsequent to the previous year, as the Income-tax Officer may require, or to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including a statement of all assets and liabilities not included in the accounts) as the Income-tax Officer may require;"

15. *Amendment of section 24, Act XI of 1922.*—In section 24 of the principal Act,—

(a) in sub-section (1), for the first proviso, the following proviso shall be substituted, namely :—

"Provided that in computing the income, profits and gains chargeable under any head or the loss of profits and gains falling under any head, so much of any loss of profits and gains as would but for the loss have accrued or arisen within the State of Jammu

and Kashmir, shall not be taken into account except to the extent of the amount of income, profits and gains, if any, which would be exempt under the provisions of clause (c) of sub-section (2) of Section 14.";

(b) in sub-section (2),—

(i) for the words "under the head 'Profits and gains of business, profession or vocation'", the words "in any business, profession or vocation", shall be substituted;

(ii) for clause (a) of the proviso, the following clause shall be substituted, namely:—

"(a) where the loss sustained is in any business, profession or vocation, so much of such loss as is referred to in the first proviso to sub-section (1) shall not be set off except against the profits and gains accruing or arising in the State of Jammu and Kashmir, from the same business, profession or vocation and exempt from tax under the provisions of clause (c) of sub-section (2) of Section 14."

16. *Amendment of Section 30, Act XI of 1922.*—In Section 30 of the Principal Act,—

(a) in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that no appeal shall lie under this section against an order passed by an Inspecting Assistant Commissioner, when exercising the powers of the Income-tax Officer in pursuance of a direction given by the Commissioner under sub-section (5) of Section 5.";

(b) in sub-section (1A), the brackets, figures, letters and word "(3A)" and "or (3C)", shall be omitted.

17. *Amendment of Section 33, Act XI of 1922.*—In Section 33 of the principal Act, after sub-section (1), the following sub-section, shall be inserted, namely:—

"(1A) Any assessee objecting to any such order as is referred to in sub-section (1) of Section 30, passed by an Inspecting Assistant Commissioner, when exercising the powers of an Income-tax Officer, may appeal to the Appellate Tribunal, within the time specified in sub section (2) of that section, and the provisions of Sections 30 and 31 shall, so far as may be, apply to such appeal as they apply to an appeal to the Appellate Assistant Commissioner from an order of the Income-tax Officer."

18. *Amendment of Section 33A, Act XI of 1922.*—In sub-section (1) of Section 33A of the principal Act, after the words "made within one year from the date of the order" the words and brackets "(or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period)" shall be inserted.

19 *Amendment of Section 34, Act XI of 1922.*—In the second proviso to sub-section (3) of Section 34 of the principal Act, for the words "in pursuance of", the words "to an assessment or re assessment made on the assessee or any other person in consequence of or to give effect to any finding or direction contained in" shall be substituted.

20. *Amendment of Section 35 Act XI of 1922.*—In Section 35 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

"(5) Where in respect of any completed assessment of a partner in a firm, it is found on the assessment or re-assessment of the firm or on any reduction or enhancement made in the income of the firm under Section 31, Section 33, Section 33A, Section 33B, Section 66 or Section 66A, that the share of the partner in the profit or loss of the firm has not been included in the assessment of the partner or, if included is not correct, the inclusion of the share in the assessment or the correction thereof, as the case may be, shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the firm.

(6) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or any other proceeding, or where any excess profits tax or business profits tax has been assessed after the completion of the corresponding assessment for income-tax [whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1952], and in consequence thereof, it is necessary to re-compute the total income of the assessee, chargeable to income-tax, such recomputation shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years referred to in that sub-section being computed from the date of the order modifying the assessment of such excess profits tax or business profits tax.

Explanation.—For the purposes of sub-section (6), where the assessee is a firm, the provisions of sub-section (5), shall also apply as they apply to the rectification of the assessment of the partners of the firm."

21. *Amendment of Section 37, Act XI of 1922.*—Section 37 of the principal Act shall be numbered as sub-section (1) of that section, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) Any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act."

22. *Amendment of section 46, Act XI of 1922.*—In sub-section (7) of section 46 of the principal Act, for the proviso, the following provisos and the *Explanation* shall be substituted, namely:—

"Provided that the period of one year herein referred to shall—

(*i*) where an assessee has been treated as not being in default under section 45 as long as his appeal is undisposed of, be reckoned from the date on which the appeal is disposed of;

(*ii*) where recovery proceedings in any case have been stayed by any order of a court, be reckoned from the date from which the order is withdrawn;

(*iii*) where the date of payment of tax has been extended by an income-tax authority, be reckoned from the date up to which the time for payment had been extended;

(*iv*) where the sum payable is allowed to be paid by instalments, from the date on which the last of such instalments was due:

Provided further that nothing in the foregoing proviso shall have the effect of reducing the period within which proceedings for recovery can be commenced, namely, after the expiration of one year from the last day of the financial year in which the demand is made.

Explanation.—A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to, and for the removal of doubts it is hereby declared that the several modes of recovery specified in this section are neither mutually exclusive, nor affect in any way any other law for the time being in force relating to the recovery of debts due to Government, and it shall be lawful for the Income-tax Officer, if for any special reasons to be recorded he so thinks fit, to have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from an assessee by any other mode."

23. *Insertion of new section 46A in Act XI of 1922.*—After section 46 of the principal Act, the following section shall be inserted, namely:—

'46A. *Persons leaving India to obtain tax clearance certificates.*—(*1*) Subject to such exceptions as may be made by the Central Government, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the "competent authority") a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person:

Provided that if the competent authority is satisfied that such person intends to return to India, he may issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate.

(*2*) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside the territory, allows any person to whom sub-section (*1*) applies, to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the amount of tax, if any, which is or may be payable by such person, and shall also be punishable with fine which may extend to two thousand rupees.

Explanation.—For the purposes of this sub-section the expressions "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default within the meaning of sub section (1) of section 46.

(4) The Central Government may make rules for regulating any matter necessary for or incidental to, the purpose of carrying out the provisions of this section.

24. *Amendment of section 49B, Act XI of 1922.*—Section 49B of the principal Act shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) For the purposes of sub-section (1), income tax shall be deemed to include agricultural income-tax assessed on a company by any State Government other than the Government of Jammu and Kashmir, and where any shareholder proves that the company has been so assessed to agricultural income tax, he shall be entitled to the reduction from the tax payable by him under this Act of a sum equal to—

(a) the appropriate agricultural income-tax (reduced by the amount of refund, if any, allowed to him by the State Government), or

(b) the appropriate Indian income-tax on the amount of the dividend which has not been increased under sub section (2) of Section 16,

whichever is the less.

Explanation.—In this sub-section,—

(a) 'appropriate agricultural income-tax' means such proportion of the agricultural income-tax as the amount of dividend which has not been increased under sub-section (2) of Section 16 bears to the total profits of the company assessed to agricultural income tax; and

(b) 'appropriate Indian income-tax' means such proportion of the income-tax payable by the share holder under this Act as the amount of dividend which has not been increased under sub-section (2) of Section 16 bears to the total income of the share-holder."

25. *Amendment of section 49D, Act XI of 1922.*—For section 49D of the principal Act, the following section shall be substituted, namely:—

"49D. *Relief in respect of income accruing or arising outside the taxable territories.*—(1) If any person who is resident in the taxable territories in any year proves that, in respect of his income which accrues or arises during that year without the taxable territories (and which is not deemed to accrue or arise in the taxable territories) he has paid in any country, with which there is no reciprocal arrangement for relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower.

(2) The Central Government may, by notification in the Official Gazette, declare that the provisions of sub-section (1) shall also apply in relation to any such income accruing or arising in the United Kingdom and chargeable under this Act for the year ending on the 31st day of March 1950, or for the year ending on the 31st day of March, 1951 or for the year ending on the 31st day of March, 1952.

Explanation.—In this section,—

(*i*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act;

(*ii*) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the other provisions of this Act but before deduction of any relief due under this section, by the total income;

(*iii*) the expression "rate of tax of the said country" means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws of the said country after deduction of all reliefs due, divided by the whole amount of the income assessed in the said country."

26. *Amendment of section 49E Act, XI of 1922.*—In section 49E of the principal Act, for the words "against the tax" the words "against the tax, interest or penalty" shall be substituted.

27. *Amendment of section 54, Act XI of 1922.*—In sub-section (3) of section 54 of the principal Act,—

(*i*) for clauses (*a*) and (*b*), the following clauses shall be substituted namely :—

"(*a*) of any such particulars in connection with a prosecution under the Indian Penal Code (Act XLV of 1860) or under this Act, in respect of any matter arising in the course of the execution of this Act, or

(b) of any such particulars to any person acting in the execution of this Act or of the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the Taxation on Income (Investigation Commission) Act 1947," ; or

(*ii*) in clause (*d*), after the word "Government" the words "or any Income-tax authority" shall be inserted and after the words "under this Act" the words "or under any other law for the time being in force authorising any Income-tax authority to exercise any powers thereunder" shall be inserted;

(*iii*) in clause (*gg*), the words "in connection with income-tax proceedings" shall be omitted and for the words "registered accountant', the words "chartered accountant" shall be substituted.

28. *Amendment of section 58C, Act XI of 1922.*—In sub-section (1) of section 58C of the principal Act,—

(*i*) to clause (d), the following proviso shall be added, namely :—

"Provided that the fund may consist also of the accumulated balance due to an employee who has ceased to be an employee and of interest (simple and compound) in respect thereof where such balance is retained in the fund in accordance with the provisions of clause (*g*).";

(*ii*) in clause (*g*), after the words "maintaining the fund" the words "unless at the request of the employee made in writing, the trustees of the fund consent to retain the whole or any part of the accumulated balance due to the employee in the fund to be drawn by him at any time on demand" shall be inserted.

29. *Amendment of section 59, Act XI of 1922.*—In sub-section (2) of section 59 of the principal Act, for clauses (c) and (*d*), the following clause shall be substituted, namely :—

"(c) prescribe the procedure for giving effect to the terms of any agreement for the avoidance of double taxation on income which

may be entered into by the Central Government under section 49AA;".

30. *Amendment of section 66A, Act XI of 1922.*—In sub-section (1) of section 66A of the principal Act, for the words, brackets and figures "and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1950 (Act V of 1908) shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force", the following shall be substituted, namely:

"and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges:

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it."

31. *Substitution of new section for section 67, Act XI of 1922.* — For section 67 of the principal Act, the following section shall be substituted, namely:—

"67. *Bar to legal proceedings.*—(1) No suit or other legal proceeding shall lie in any civil court—

(a) to set aside or modify any assessment under this Act, or

(b) for the grant of any relief which will have the effect of preventing the commencement or continuance of any assessment proceeding against any person under this Act.

(2) No prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act."

32. *Amendment of the Schedule, Act XI of 1922.*—(1) In the Schedule to the principal Act,—

(a) for the words "Superintendent of Insurance" wherever they occur, the words "Controller of Insurance" shall be substituted;

(b) in rule 2,—

(i) in clause (b), for the words "actuarial valuation made for the last inter-valuation period", the words "actuarial valuation made in accordance with the Insurance Act, 1938 (IV of 1938), in respect of the last inter-valuation period" shall be substituted;

(ii) in clause (d) of the proviso, for the figures "12" the figures "15" shall be substituted;

(c) in clause (a) of rule 3, for the words "one half" the words "four-fifths" shall be substituted, and in the second proviso for the words "one-half of such amount" the words and brackets "that proportion of such amount (one-half or four-fifths, as the case may be)" shall be substituted;

(d) for rule 8, the following rule shall be substituted, namely.—

"8. The profits and gains of the branches in the taxable territories of a person not resident in the taxable territories and carrying on any business of insurance, may, in the absence of more reliable data be deemed to be that proportion of the world income of such person which cerspods to the proportion which his premium income

derived from the taxable territories bears to his total premium income,

For the purposes of this rule, the world income in relation to life insurance business of a person not resident in the taxable territories shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in the taxable territories."

(2) The amendments made by sub-section (1) shall be deemed to be operative in relation to any assessment subsequent to the assessment for the year ending on the 31st day of March, 1951, whether such assessment has or has not been made before the commencement of this Act and where any such assessment has been made before such commencement it shall be lawful for the Income tax Officer to revise it, wherever necessary, to give effect to such amendments.

33. *Application of Act.*— Subject to any special provision made in this behalf in this Act, the amendments made by this Act in the principal Act shall have effect in relation to all assessments for the year ending on the 31st day of March, 1953 and subsequent years.

34 *Validity of certain notices and assessments* — For the removal of doubts it is hereby declared that the provisions of sub-sections (1), (2) and (3) of section 34 of the principal Act shall apply and shall be deemed always to have applied to any assessment or re-assessment for any year ending before the 1st day of April, 1948, and any notice issued in accordance with sub-section (1) or any assessment completed in pursuance of such notice within the time specified in sub-section (3), whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1952, shall, notwithstanding any judgment or order of any court, Appellate Tribunal of Income-tax authority to the contrary be deemed to have been validly issued or completed, as the case may be, and no such notice, assessment or re-assessment shall be called in question on the ground merely that the provisions of section 34 did not apply or purport to apply in respect of an assessment or re-assessment for any year prior to the 1st day of April, 1948.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is—

(a) to give effect, to some of the urgent, clarificatory and beneficial provisions contained in the comprehensive Income-tax Amendment Bill (Bill No. 56 of 1951), which was introduced in June last year and which has now lapsed;

(b) to give effect to some further concessions to Industries;

(c) to make certain amendments which have become necessary owing to some recent judicial decisions, and in the light of the experience gained in the working of the Act; and

(d) to make certain amendments so as to bring the law in line with the practice and with the administrative changes already made or under contemplation.

2. A comprehensive Income-tax (Amendment) Bill including, amongst others, such recommendations of the Income-tax Investigation Commission as had been accepted by Government was introduced in June last year, but it could not be taken up for consideration in the subsequent sessions of Parliament owing to pressure of other urgent business. That Bill has now lapsed, and in any case its provisions would have required detailed examination in the light of the comments received from various quarters. Meanwhile, it has become necessary to introduce a shorter Bill containing the amendments described above.

3. The notes on clauses explain the object underlying each of the amendments contained in the Bill.

NEW DELHI,
The 13th May, 1952.

C. D. DESHMUKH.

No. L. Dis. 13436/52/CS.

NOTIFICATION.

Government of India, Ministry of Home Affairs Notification No. 118/50-Judl. dated 17-4-1952 published as S. R. O. 709 in the Gazette of India Part II Section 3 dated 26-4-1952 is republished below for information.

By order of His Highness
the Raj Pramukh,
V. N. RAJAN,
Chief Secretary to Government.

Government Secretariat,
Judicial Section
Trivandrum, 11th June 1952.

MINISTRY OF HOME AFFAIRS.

NOTIFICATION.

New Delhi, the 17th April 1952.

S. R. O. 709.—In exercise of the powers conferred by sub-section (1) of section 549 of the Code of Criminal Procedure 1898 (V of 1898), and in supersession of all previous notifications on the subject, the Central Government hereby makes the following rules for the trial of persons subject to military, naval or Air Force law, by a court to which the said Code applies, or by a court-martial, namely :—

1. (1) These Rules, may be called the Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules, 1952.

(2) They extend to the whole of India except the States of Jammu and Kashmir and Manipur.

2. In these Rules unless the context otherwise requires—

(i) "Commanding Officer" :

(a) in relation to a person subject to military law means the Officer Commanding the unit or detachment to which such person belongs or is attached;

(b) in relation to a person subject to naval law means the Commanding Officer of the ship to which such person for the time being belongs ; and

(c) in relation to a person subject to Air Force law means the officer for the time being in command of the unit or detachment to which such person belongs or is attached.

(ii) "competent military authority" means the Officer Commanding the army, army corps, division, area, corps or independent brigade or sub-area in which the accused person is serving and [except in cases falling under section 69 of the Army Act, 1950 (XLVI of 1950)] where death has resulted, the Officer Commanding the brigade or sub area or station in which the accused person is serving.

(iii) "competent naval authority" means the Commander-in-Chief, Indian Navy, or Rear Admiral Commanding, Indian Naval Squadron, or Commodore-in-Charge, Bombay, or Commodore-in-

Charge, Cochin, or Naval Officer-in-Charge, or Senior Naval Officer present; and

(iv) "competent Air Force authority" means the officer commanding the command, wing or station in which the accused person is serving, and when death has resulted [except in cases falling under section 72 of the Air Force Act, 1950 (XLV of 1950)] the Commander-in-Chief, Air Force".

3. Where a person subject to military, naval or Air Force law is brought before a Magistrate and charged with an offence for which he is liable to be tried by a court-martial, such Magistrate shall not proceed to try such person or to issue orders for his case to be referred to a Bench, or to inquire with a view to his commitment for trial by the Court of Sessions or the High Court for any offence triable by such Court, unless

(a) he is of opinion, for reasons to be recorded, that he should so proceed without being moved thereto by competent military, naval or Air Force authority, or

(b) he is moved thereto by such authority.

4. Before proceeding under clause (a) of rule 3 the Magistrate shall give written notice to the Commanding Officer of the accused and until the expiry of a period of seven days from the date of the service of such notice he shall not—

(a) convict or acquit the accused under sections 243, 245, 247 or 248 of the Code of Criminal Procedure, 1898 (V of 1898) or hear him in his defence under section 244 of the said code; or

(b) frame in writing a charge against the accused under section 254 of the said Code; or

(c) make an order committing the accused for trial by the High Court or the Court of Sessions under section 213 of the said Code.

5. Where within the period of seven days mentioned in rule 4, or at any time thereafter before the Magistrate has done any act or issued any order referred to in that rule, the Commanding Officer of the accused or competent military, naval or Air Force authority, as the case may be, gives notice to the Magistrate that in the opinion of such authority, the accused should be tried by a court martial, the Magistrate shall stay proceedings and if the accused is in his power or under his control, shall deliver him, with the statement prescribed in sub-section (1) of section 549 of the said Code to the authority specified in the said sub-section.

6. Where a Magistrate has been moved by competent military, naval or Air Force authority, as the case may be, under clause (b) of rule 3, and the Commanding Officer of the accused or competent military, naval or Air Force authority, as the case may be, subsequently gives notice to such Magistrate that, in the opinion of such authority, the accused should be tried by a court-martial, such Magistrate, if he has not before receiving such notice done any act or issued any order referred to in rule 4, shall stay proceedings and, if the accused is in his power or under his control, shall in the like manner deliver him, with the statement prescribed in sub section (1) of section 549 of the said Code to the authority specified in the said sub-section.

7. Where an accused person, having been delivered by the Magistrate under rule 5 or 6, is not tried by a court-martial for the offence of which he is accused, or other effectual proceedings are not taken, or ordered to be taken,

against him, the Magistrate shall report the circumstance to the State Government which may, in consultation with the Central Government, take appropriate steps to ensure that the accused person is dealt with in accordance with law.

8. Notwithstanding anything in the foregoing rules, where it comes to the notice of a Magistrate that a person subject to military, naval or Air Force law has committed an offence, proceedings in respect of which ought to be instituted before him and that the presence of such person cannot be procured unless through military, naval or Air Force authorities, the Magistrate may by a written notice require the Commanding Officer of such person either to deliver such person to a Magistrate to be named in the said notice for being proceeded against according to law, or to stay the proceedings against such person before the court-martial, if since instituted, and to make a reference to the Central Government for determination as to the Court before which proceedings should be instituted.

9. Where a person subject to military, naval or Air Force law has committed an offence which, in the opinion of competent military, naval or Air Force authority, as the case may be, ought to be tried by a Magistrate in accordance with the civil law in force or where the Central Government has, on a reference mentioned in rule 8, decided that proceedings against such person should be instituted before a Magistrate, the Commanding Officer of such person shall after giving a written notice to the Magistrate concerned, deliver such person under proper escort to that Magistrate.

[No. 118/50-Judl.]

E. C. GAYNOR, *Dy. Secy.*

പരസ്യം.

നമ്പർ എൽ. ഡി. (ബി) ൩-൧൦൭/൫൧/ലാ.

൧൯൫൨ ജനുവരി ൨൭.

തിരുവിതാംകൂർ-കൊച്ചി നിയമസഭയുടെ താഴെപ്പറയുന്ന ആക്റ്റിനു ൧൯൫൨ ജനുവരി ൨൭-ാംനു പ്രസിഡൻറിന്റെ അനുമതി സിദ്ധിച്ചിരിക്കുന്നു. പൊതുജനങ്ങളുടെ അറിവിനായി അതു ഇതിനാൽ പ്രസിദ്ധപ്പെടുത്തിയിരിക്കുന്നു.

രാജപ്രമുഖൻ തിരുമനസ്സിലെ ഉത്തരവിൻ പ്രകാരം,

ഗവണ്മെൻറ് സിക്രട്ടേറിയറ്റ്, ലാ ഡിപ്പാർട്ടുമെൻറ്, തിരുവനന്തപുരം.

എൻ. എസ്സ്. രാധാകൃഷ്ണശർമ്മ.
ഗവണ്മെൻറ് സിക്രട്ടറി.

൧൯൫൨-ലെ ൧൦-ാം ആക്ട്.

൧൯൫൧-ലെ തിരുവിതാംകൂർ-കൊച്ചി ഹൈക്കോടതി (ഭേദഗതി) ആക്റ്റ്.

പീഠിക. ൧൧൨൫-ലെ തിരുവിതാംകൂർ-കൊച്ചി ഹൈക്കോടതി ആക്റ്റ് (൧൧൨൫-ലെ ൫-ാം ആക്റ്റ്) താഴെ പറയുന്ന കാര്യങ്ങൾക്കായി ഭേദപ്പെടുത്തുന്നതു ആവശ്യമെന്നു കരുതുന്നതുകൊണ്ടു;

ഇതിനാൽ താഴെ കാണും പ്രകാരം നിയമപ്പെടുത്തിയിരിക്കുന്നു.

ചുരുക്കപ്പേരും പ്രാരംഭവും. ൧. (൧) ഈ ആക്റ്റിനു ൧൯൫൧-ലെ തിരുവിതാംകൂർ-കൊച്ചി ഹൈക്കോടതി (ഭേദഗതി) ആക്റ്റ് എന്നു പേർ പറയാവുന്നതാണ്.

(൨) ഇതു ഉടൻതന്നെ ഊർജ്ജിതത്തിൽ വരുന്നതാകുന്നു.

പീഠികയ്ക്കുപകരം ചേർക്കുന്നതു. ൨. ഇനിമേൽ ഇതിൽ ആക്റ്റ് എന്നു പറയപ്പെടുന്ന ൧൯൫൧-ലെ തിരുവിതാംകൂർ-കൊച്ചി ഹൈക്കോടതി ആക്റ്റിലെ (൧൧൨൫-ലെ ൫-ാം ആക്റ്റ്) പീഠികയ്ക്കുപകരം താഴെ പറയുന്നതു ചേർക്കണം:—

"സിംഗിൾ ജഡ്ജിമാരുടെയും, ഡിവിഷൻ ബെഞ്ചുകളുടെയും, ഫുൾ ബെഞ്ചുകളുടെയും അധികാരാതിർത്തിയും, അധികാരങ്ങളും നിർണ്ണയിക്കുന്നതിനും, ഹൈക്കോടതിയുടെ കൃത്യങ്ങൾ സംബന്ധിച്ച മററ നിശ്ചിത കാര്യങ്ങൾക്കുമായി തിരുവിതാംകൂർ-കൊച്ചി ഹൈക്കോടതിയുടെ പ്രവർത്തനം നിയന്ത്രിക്കുന്നതിനു വ്യവസ്ഥ ചെയ്യേണ്ടതു ആവശ്യമായിരിക്കകൊണ്ടു;

ഇതിനാൽ താഴെ കാണുംപ്രകാരം നിയമപ്പെടുത്തിയിരിക്കുന്നു."

൩. ആക്ടിലെ ൧-ാംവകുപ്പിനുമുമ്പു കാണുന്ന "ഭാഗം ൧. പ്രാരംഭം" എന്ന തലവാചകം വിട്ടുകളയണം

തലവാചകംവിട്ടുകളയണം.

൪. ആക്ടിലെ ൧-ാംവകുപ്പിനു പകരം താഴെപ്പറയുന്നതു ചേർക്കണം:—

൧൧൨൫-ലെ ൫-ാം ആക്ട് ൧-ാം വകുപ്പിനു പകരംചേർക്കണം.

"(൧) ഈ ആക്ടിന് ൧൧൨൫-ലെ തിരുവിതാംകൂർ-കൊച്ചി ഹൈക്കോടതി ആക്ട് എന്ന് പേർ പറയുന്നതാണ്."

ചുരുക്കപ്പേര്.

൫. ഈ ആക്ടിലെ ൪-ാംവകുപ്പ് വിട്ടുകളയണം.

൧൧൨൫-ലെ ൫-ാം ആക്ട് ൪-ാംവകുപ്പ് വിട്ടുകളയണം.

൬. ഈ ആക്ടിലെ ൫-ാംവകുപ്പിനു മുമ്പുകാണുന്ന "ഭാഗം ൨. ഹൈക്കോടതിയുടെ ഘടന" എന്ന തലവാചകം വിട്ടുകളയണം.

തലവാചകംവിട്ടുകളയണം.

൭. ഈ ആക്ടിലെ ൫-ാംവകുപ്പ് വിട്ടുകളയണം.

൧൧൨൫-ലെ ൫-ാം ആക്ടിലെ ൫-ാംവകുപ്പ് വിട്ടുകളയണം.

൮. ഈ ആക്ടിന്റെ ൬-ാംവകുപ്പിൽ "കോർട്ട് ഓഫ് റിക്കാർഡ് ആയിരിക്കുകയും" എന്ന വാക്കുകൾ എടുത്തുകളയണം.

൧൧൨൫-ലെ ൫-ാം ആക്ടിലെ ൬-ാം വകുപ്പിന്റെ ഭേദഗതി.

൯. ഈ ആക്ടിന്റെ ൭-ാംവകുപ്പിനു പകരം താഴെ പറയുന്നതു ചേർക്കണം:—

൧൧൨൫-ലെ ൫-ാം ആക്ടിൽ ൬-ാം വകുപ്പ് പകരം ചേർക്കൽ.

"൭. ഹൈക്കോടതിയിലെ ഏതെങ്കിലും ജഡ്ജിയുടെ ഉദ്യോഗത്തിൽ വല്ല ഒഴിവ് ഉണ്ടായിരുന്നാലും ഒരു സിംഗിൾ ജഡ്ജിക്കോ രണ്ട് ജഡ്ജിമാർ കൂടിയ ഒരു ഡിവിഷൻബെഞ്ചിനോ ഒരു ഫുൾബെഞ്ചിനോ ഈ ആക്റ്റ് ൧൮ മുതൽ ൨൪ വരെ വകുപ്പുകൾ മുറയ്ക്ക് അവർക്ക് നൽകുന്ന അധികാരാതിർത്തികളും, അധികാരങ്ങളും ഉപയോഗിക്കാവുന്നതാണ്."

ജഡ്ജി ഉദ്യോഗത്തിൽ ഒഴിവ് ഉണ്ടായിരുന്നാലും അധികാരം വിനിയോഗിക്കാം എന്ന്.

൧൦. ഈ ആക്റ്റിലെ, ൯, ൧൦, ൧൧, ൧൨, ൧൩, ൧൪ എന്നീ വകുപ്പുകൾ എടുത്തുകളയണം.

൧൧൨൫-ലെ ൫-ാം ആക്റ്റിൽ ൯ മുതൽ ൧൪ വരെ വകുപ്പുകൾ വിട്ടുകളയണം.

൧൧. ഈ ആക്റ്റിലെ ൧൬-ാം വകുപ്പ് വിട്ടുകളയണം.

൧൧൨൫-ലെ ൫-ാം ആക്റ്റ് ൧൬-ാം വകുപ്പ് വിട്ടുകളയണം.

൧൨. ഈ ആക്റ്റിലെ ൧൮-ാം വകുപ്പിന് മുമ്പ് കാണുന്ന "ഭാഗം ൩. ഹൈക്കോടതിയുടെ അധികാരാതിർത്തി" എന്ന തലവാചകം വിട്ടുകളയണം.

തലവാചകം വിട്ടുകളയണം എന്ന്.

൧൩. ഈ ആക്റ്റിലെ ൧൮-ാം വകുപ്പിൽ (൨) (൩) (൪) എന്നീ ഉപവകുപ്പുകൾ വിട്ടുകളയണം.

൧൧൨൫-ലെ ൫-ാം ആക്റ്റ് ൧൮-ാം വകുപ്പിന്റെ ഭേദഗതി.

൧൪. ഈ ആക്റ്റ് ൧൯-ാം വകുപ്പിന്റെ ഒടുവിൽ കാണുന്ന "ഈ ആക്റ്റിൻ പ്രകാരം സംഘടിക്കപ്പെട്ട" എന്ന വാക്കുകൾക്ക് പകരം "തിരുവിതാംകൂർ-കൊച്ചി സംസ്ഥാനത്തിലെ" എന്ന വാക്കുകൾ ചേർക്കണം.

൧൧൨൫-ലെ ൫-ാം ആക്റ്റ് ൧൯-ാം വകുപ്പിന്റെ ഭേദഗതി.

൧൫. ഈ ആക്റ്റ് ൨൦-ാം വകുപ്പിലെ ൪-ാം ഖണ്ഡത്തിൽ:—

(൧) (എ) ഉപഖണ്ഡത്തിൽ (൪)-ാം ഇനത്തിനു പകരം താഴെ പറയുന്നതു ചേർക്കണം:—

൧൧൨൫-ലെ ൫-ാം ആക്റ്റ് ൨൦-ാം വകുപ്പിന്റെ ഭേദഗതി.

"(൪) ൧൯൦൮-ലെ സിവിൽ നടപടിനിയമം ൧൧൫-ാം വകുപ്പനുസരിച്ച്"

(൨) (എ) ഉപഖണ്ഡം (൧)ാം ഇനത്തിനു പകരം താഴെ പറയുന്നതു ചേർക്കുക:—

"(൧) ൧൮൯൮-ലെ ക്രിമിനൽ നടപടിനിയമം ൪൨൩-ം ൪൯൮-ം വകുപ്പുകൾ നൽകുന്ന അധികാരങ്ങൾ വിനിയോഗിക്കുന്നതിനു"

(൩) (എ) ഉപഖണ്ഡത്തിൽ (൧൦)-ാം ഇനത്തിനു പകരം താഴെപ്പറയുന്നതു ചേർക്കണം:—

"(൧൦) ഇൻഡ്യൻ ഭരണഘടന ൨൨൮-ാം വകുപ്പിനു വിധേയമായ ൨൨൩-ാം വകുപ്പ് ഒന്നാംഖണ്ഡം നൽകുന്ന അധികാരങ്ങൾ വിനിയോഗിക്കുന്നതിനു"

(൪) (സി) ഉപഖണ്ഡത്തിനു പകരം താഴെ പറയുന്നതു ചേർക്കണം.—

"(സി) ഒരു അപ്പീൽ വിധിയിൽനിന്നും ആയിരം രൂപയോ അതിനു താഴെയോ സല ഇടപെട്ടിട്ടുള്ള ഓരോ അപ്പീലും ആദ്യേവ്യവഹാരത്തിലെ വസ്തു വിഷയം ആയിരംരൂപയോ അതിൽ കുറവായോ സല ഇടപെട്ടിട്ടുണ്ടെങ്കിൽ അപ്രകാരമുള്ള അപ്പീൽ ഉത്തരവിൽ നിന്നുമുള്ള ഓരോ അപ്പീലും;

എന്നാൽ, അപ്രകാരമുള്ള വല്ല അപേക്ഷയോ അപ്പീലോ രണ്ടു ജഡ്ജിമാർ കൂടിയ ഒരു ഡിവിഷൻ ബെഞ്ചിന്റെയോ ഒരു ഫുൾ ബെഞ്ചിന്റെയോ തീരുമാനത്തിനു അപ്രകാരമുള്ള ജഡ്ജി അയയ്ക്കുന്നതു ന്യായാനസൃതമായിരിക്കുന്നതാണു."

൧൩. ആക്റ്റ് ൨൧-ാംവകുപ്പിൽ,—

൧൯൫൬-ലെ ൬-ാം ആക്റ്റ് ൨൧-ാം വകുപ്പിന്റെ ഭേദഗതി.

(൧) (൧)-ാം ഖണ്ഡത്തിനു പകരം താഴെ പറയുന്നതു ചേർക്കുക:—

"(൧) ൨൦-ാംവകുപ്പ് നാലാം ഖണ്ഡം എ (൧൦)-ാം ഉപഖണ്ഡമനുസരിച്ച് ഒരു സിംഗിൾ ജഡ്ജി പാസാക്കിയ ഉത്തരവുകളിന്മേൽ, അപ്പീൽകേട്ടു തീരുമാനിക്കുന്നതിനും; ജഡ്ജ്മെന്റു പാസ്സാക്കിയ ജഡ്ജി പ്രസ്തുത കേസ്സ് അപ്പീലിനു ഉചിതമാണെന്നു പ്രഖ്യാപിക്കുകയാണെങ്കിൽ ൨൦-ാംവകുപ്പ് ൪-ാംഖണ്ഡം (സി) ഉപഖണ്ഡം അനുസരിച്ചു, ഒരു സിംഗിൾ ജഡ്ജി പാസ്സാക്കിയ ജഡ്ജ്മെന്റുകളിന്മേൽ അപ്പീൽ കേട്ടു തീരുമാനിക്കുന്നതിനും; ൨൦-ാംവകുപ്പനുസരിച്ച് ഒരു സിംഗിൾ ജഡ്ജിക്കു അഭിപ്രായം ചോദിക്കാവുന്ന അപേക്ഷകളോ അപ്പീലുകളോ അഥവാ മററുനടപടികളോ കേട്ടു തീരുമാനിക്കുന്നതിനും"

(൨) രണ്ടാംഖണ്ഡം (എ) ഉപഖണ്ഡത്തിന്റെ, ഒടുവിൽ കാണുന്ന "൨൯-ാം വകുപ്പിൽ വ്യവസ്ഥപ്പെടുത്തിയിട്ടുള്ള അപ്പീലുകൾ ഒഴിച്ച്" എന്ന വാക്കുകൾ എടുത്തുകളയണം.

(൩) രണ്ടാംഖണ്ഡം (ബി) ഉപഖണ്ഡത്തിനു പകരം താഴെപറയുന്നതു് ചേർക്കണം:—

"൧൯൦൮-ലെ സിവിൽ നടപടി നിയമം ൧൦൪-ാം വകുപ്പിൽ വ്യവസ്ഥപ്പെടുത്തിയ വിധത്തിലുള്ളതും, ഹൈക്കോടതിയിലെ ഒരു സിംഗിൾ ജഡ്ജി ആദ്യവിചാരണാധികാരം വിനിയോഗിച്ചു പാസ്സാക്കിയിട്ടുള്ളതുമായ ഉത്തരവുകളിന്മേൽ ഉള്ള എല്ലാ അപ്പീലുകളും കേട്ടു തീരുമാനിക്കുന്നതിനും."

(൪) (൫)-ാംഖണ്ഡത്തിനു പകരം താഴെപറയുന്നതു് ചേർക്കണം:—

"൧൮൯൮-ലെ ക്രിമിനൽ നടപടിനിയമം ൪൯൧-ാം വകുപ്പനുസരിച്ചുള്ള അപേക്ഷകൾ കേട്ടു തീരുമാനിക്കുന്നതിനും"

൧൧൨൩-ലെ ൩-ാം ആക്റ്റ് ൨൪-ാം വകുപ്പിന്റെ ഭേദഗതി.

൧൭. ആക്റ്റിലെ ൨൪-ാംവകുപ്പിലെ ക്ലിപ്തനിബന്ധന എടുത്തുകളയണം.

൧൧൨൩-ലെ ൩-ാം ആക്റ്റ് ൨൩, ൨൫ എന്നീ വകുപ്പുകൾ എടുത്തുകളയണം.

൧൮. ൨൩, ൨൫ എന്നീ വകുപ്പുകൾ എടുത്തുകളയണം.

തലവാചകം എടുത്തുകളയണം.

൧൯. ആക്റ്റിലെ ൨൭-ാം വകുപ്പിനുമുമ്പ് കാണുന്ന "ഭാഗം ൪. ഹൈക്കോടതിയുടെ ഭരണപരമായ ചുമതലകൾ" എന്ന തലവാചകം എടുത്തുകളയണം.

൧൧൨൩-ലെ ൩-ാം ആക്റ്റ് ൨൭-ാം വകുപ്പിനു പകരം പുതിയവകുപ്പ് ചേർക്കണമെന്ന്.

൨൦. ആക്റ്റിലെ ൨൭-ാംവകുപ്പിനു പകരം താഴെപറയുന്നതു ചേർക്കണം:—

കീഴ്ക്കോടതികൾ സന്ദർശിക്കുന്നതിനു ജഡ്ജിയെ നിയോഗിക്കണമെന്ന്.

"൨൭. കീഴ്ക്കോടതികൾ സന്ദർശിക്കുന്നതിനും അവയിലെ നടപടികളിലും പതിവുകളിലും ഉള്ള തെറ്റുകൾ തിരുത്തുന്നതിനും, കീഴ്ക്കോടതികളിലെ പ്രവർത്തനം സാമാന്യേന പരിശോധിച്ചു റിപ്പോർട്ടുചെയ്യുന്നതിനും ഹൈക്കോടതിക്കു പ്രസ്തുത കോടതിയിലെ ഒരു ജഡ്ജിയെ നിയോഗിക്കുന്നതിനു് അധികാരമുണ്ടായിരിക്കുന്നതാണ്."

൨൧. ആക്ററിലെ ൨൭-ാം വകുപ്പ് എടുത്തുകളയണം.

൧൧൨൬-ലെ ൬-ാം ആക്ററ് ൨൭-ാം വകുപ്പ് വിട്ടുകളയണം.

൨൨. ആക്ററിന്റെ ൨൯-ാം വകുപ്പിനുമുമ്പു കാണുന്ന "ഭാഗം ൬. പലവക" എന്ന തലവാചകം എടുത്തുകളയണം.

തലവാചകം എടുത്തുകളയുക.

൨൩. ആക്ററിലെ ൩൦-ാം വകുപ്പിനു പകരം താഴെക്കാണുന്നതു ചേർക്കണം:—

൧൧൨൬-ലെ ൬-ാം ആക്ററ് ൩൦-ാം വകുപ്പിനു പകരം പുതിയ വകുപ്പ്.

"(൩൦) ഹൈക്കോടതിയിലെ പ്രവൎത്തനത്തിന്റെ നടത്തിപ്പ ചീഫ് ജസ്റ്റീസ് നിയന്ത്രിക്കേണ്ടതാണ്."

ഹൈക്കോടതിയിലെ പ്രവൎത്തനത്തിന്റെ നിയന്ത്രണം.

൨൪. ആക്ററ് ൩൨-ാംവകുപ്പിൽ "ഹൈക്കോടതിയുടെ കീഴുള്ള കോടതികളിലും" എന്ന വാക്കുകൾ എടുത്തുകളയണം.

൧൧൨൬-ലെ ൬-ാം ആക്ററ് ൩൨-ാംവകുപ്പിനു ഭേദഗതി

(A true translation)

K. Damodaran,
Head Translator to Government.

NOTIFICATION.

No. LA4-489|52.

12th June 1952

The following Bill together with the Statement of Objects and Reasons is published as ordered by the Speaker under Rule 33 of the Legislative Assembly Rules (as modified and adapted by the Speaker under Article 208 read with Article 238 clause (11) of the Constitution of India).

Trivandrum.

V. KRISHNAMOORTHI,
Secretary, Legislative Assembly.

THE TRAVANCORE-COCHIN MATERNITY BENEFIT BILL.

A Bill to prevent the employment of women in factories and plantations for some time before and some time after confinement and to provide for payment of maternity benefit to them.

Preamble.

WHEREAS it is expedient to prevent the employment of women in factories and plantations for some time before and some time after confinement and to provide for the payment of maternity benefit to them;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Travancore-Cochin Maternity Benefit Act, 1952.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force on such date as the Government may appoint by notification in the Gazette.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "employer" includes the occupier and the manager of a plantation or a factory;

(b) "factory" means a factory as defined in the Factories Act, 1948;

(c) "worker" in relation to a factory has the same meaning assigned to it by the Factories Act, 1948 and in relation to a plantation, means a person employed in a plantation directly or through an agency, whether for hire or not, to do any work, skilled or unskilled, manual or

clerical but does not include a person whose total emoluments exceed two hundred rupees per mensem or any member of the managerial staff, that is to say, the Manager, Assistant Manager, Supervisor or other Agent of the employer ;

(d) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee, tea or cardamom and in which fifty or more persons are employed or were employed on any day of the preceding twelve months for that purpose ;

(e) "maternity benefit" means the amount of money payable under the provisions of this Act to a woman employed in a plantation or a factory ;

(f) "prescribed" means prescribed by rules made under this Act ; and

(g) "woman" means a woman worker.

Prohibition of employment of women in factories and plantations immediately after confinement.

3. After this Act comes into operation, no employer shall knowingly employ a woman in any factory or plantation during the four weeks immediately following the day of her confinement.

Right to maternity benefit of women in factories and plantations.

4. (1) Subject to the provisions of this Act, every woman in a factory or a plantation shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of twelve annas a day for the actual days of her absence during the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (2) :

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory or plantation of the employer from whom she claims maternity benefit for at least one hundred and fifty days during the period of twelve months immediately preceding the date on which she gives notice under sub-section (1) of Section 5.

(2) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be eight weeks, that is to say, four weeks upto and including the day of her confinement and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the day upto and including the day of her death.

5. (1) Any woman in a factory or plantation entitled to maternity benefit under the provisions of this Act may give notice in writing to her employer stating that her maternity benefit may be paid to her or to such other person as she may nominate in this behalf and that she will not work in any employment during the period for which she receives maternity benefit. If the woman has not been confined, such notice shall state that she expects to be confined within one month from the date of the notice; if she has been confined, such notice shall be given within one week of her confinement.

Notice of claim of maternity benefit and payment thereof.

(2) The employer shall on receipt of the notice permit such woman to absent herself from the factory or plantation until the expiry of four weeks after the day of her confinement.

(3) The amount of maternity benefit for the period up to and including the day of confinement shall be paid by the employer to the woman within forty-eight hours of the production of such proof, as the Government may by rules prescribe, that the woman has been confined. The amount due for the subsequent period shall be paid punctually each week in arrear.

6. If a woman entitled to maternity benefit under the provisions of this Act dies during the period for which she is entitled to maternity benefit, the employer shall pay the amount of maternity benefit due to the nominee mentioned in the notice given under sub-section (1) of Section 5 and if there is no such nominee to her legal representative.

Payment of maternity benefit in case of claimant's death.

7. (1) When a woman absents herself from work in accordance with the provisions of this Act, it shall not be lawful for her employer to give her notice of dismissal during such absence or on such day that the notice will expire during such absence.

Prohibition of notice of dismissal to woman in certain cases.

(2) (a) No notice of dismissal given without sufficient cause by an employer to a woman within a period of three months before her confinement shall have the effect of depriving her of any maternity benefit to which but for such notice she would have been, or would on or before the date of her confinement have become, entitled under this Act.

(b) If any question arises as to whether any notice of dismissal given under clause (a) was or was not given for sufficient cause it shall be referred to the Inspector whose decision shall be final.

(c) The provisions of this sub-section shall not apply to notices falling under sub-section (1).

8. If a woman works in any factory or plantation after she has been permitted by her employer to absent herself under the provisions of Section 5, she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Forfeiture of maternity benefit.

9. The Government may by notification in the Gazette appoint such officers of the Government as they think fit to be Inspectors for the purposes of this Act and may assign to them such local limits as they think fit.

Appointment of Inspectors.

10. Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed, enter any place which is used, or which he has reason to believe is used, as a factory or a plantation with such assistants as he thinks fit and inspect the premises and such registers, records and notices as may be prescribed.

Powers and duties of Inspectors.

11. Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

Inspectors to be public servants.

12. If any employer contravenes any of the provisions of this Act, he shall be punishable with fine which may extend to two hundred and fifty rupees.

Penalty for contravention of Act by employer.

13. (1) No prosecution for any offence against this Act or any rules thereunder shall be instituted except by or with the previous sanction of the Inspector.

Jurisdiction of Courts.

(2) No Court inferior to that of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

14. No Court shall take cognizance of, or convict a person for, any offence against this Act or any rule thereunder unless complaint thereof has been made within six months of the date on which the offence was committed. In computing the period of six months aforesaid, the time, if any, taken for the purpose of obtaining the previous sanction of the Inspector under sub-section (1) of Section 13 shall be excluded.

Period of limitation for prosecution under Act.

15. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the preparation and maintenance of a muster roll and the particulars to be entered in such roll;

(b) the inspection of factories and plantations for the purposes of this Act by Inspectors;

(c) the exercise of powers and the performance of duties by Inspectors for the purposes of this Act;

(d) the method of payment of maternity benefit in so far as provision has not been made therefor in this Act;

(e) the nature of proof under sub-section 3 of Section 5, and

(f) all matters which are to be or may be prescribed.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication.

A Copy of Act and rules to be exhibited in factories and plantations employing women.

16. A copy of the provisions of this Act and the rules thereunder in the local language shall be exhibited in a conspicuous place by the employer in every factory and plantation in which women are employed.

Repeal.

17. The Travancore Maternity Benefit Act, XIX of 1118 and the Cochin Maternity Benefit Act, XXVII of 1113, are hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

In the Travancore area there is in force the Travancore Maternity Benefit Act, XIX of 1118 and in the Cochin area the Cochin Maternity Benefit Act, XXVII of 1113. These enactments provide for the prevention of employment of women in factories for some time before and some time after confinement and also for the payment of maternity benefit to them. Since the passing of the enactments referred to above, conditions have changed. It is therefore considered necessary to repeal those enactments and to enact a uniform measure which will be applicable to the whole State Hence the Bill.

The new features of the present Bill are the following;—

1. The existing Maternity Benefit Acts apply to women workers in factories only but not to those in plantations Women workers in plantations are not therefore entitled to any maternity benefit. It is proposed to apply the provisions of this measure to plantations also.

2. The rate of maternity benefit payable under the existing laws is only eight annas per day. Since the cost of living has increased and consequently the wage rate, it is proposed to enhance the rate of maternity benefit from eight annas to twelve

annas per day. The proposed rate prevails in Hyderabad and West Bengal.

3. The Travancore Maternity Benefit Act lays down the period of service qualifying for maternity benefit as nine months while under the Cochin Act it is twelve months. It is reported that many women workers especially in industries like cashew, coir etc. are not able to get any maternity benefit since very often the factories are closed down for want of raw materials, etc. It is therefore proposed to reduce the qualifying period to 150 days in the span of twelve months immediately preceding the date of confinement. According to the West Bengal Meternity Benefit (Tea Estates) Act, 1949, the qualifying period is 150 days.

P. GOVINDA MENON.